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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,288	02/26/2002	Anthony C. Vrba	1001.1541101	4123

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EXAMINER

SZMAL, BRIAN SCOTT

ART UNIT	PAPER NUMBER
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3736

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/083,288

Applicant(s)

VRBA ET AL.

Examiner

Brian Szmaj

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-22 and 25-27 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 23 and 24 is/are rejected.
- 7) ☒ Claim(s) 3, 4 and 6-9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 5, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen et al (5,167,239) in view of Dubrul et al (6,602,265 B2).

Cohen et al disclose an anchorable guidewire and further disclose an elongated core wire having a longitudinal axis, a proximal end and a distal end; an actuatable stop disposed at the distal end of the core wire, the actuatable stop moveable between a collapsed position and an expanded position; an actuator couple to the stop, the actuator moveable between a first position and a second position to move the stop between the collapsed position and the expanded position; the actuatable stop comprises a tubular member having a proximal end and a distal end; the inner diameter of the tubular member is larger than the outer diameter of the core wire; providing an articulating guidewire comprising an elongated core wire having a longitudinal axis, a proximal end and a distal end; and an actuatable stop disposed at the distal end of the core wire, the actuatable stop moveable between a collapsed position and an expanded position; inserting the guidewire into the lumen of a blood vessel; positioning a distal portion of the guidewire beyond a lesion or other protrusion within the body; actuating the actuatable stop from the collapsed position to the expanded position; and advancing an intravascular device along the core wire until the intravascular device abuts the

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outwardly expanded stop. See Column 3, lines 19-26 and 64-68, Column 14, lines 31-68, and Column 15, lines 1-8.

While Cohen et al discloses the placement of an intravascular device on the guidewire, Cohen et al fails to disclose a filter slidably disposed on the core wire proximal of the actuateable stop.

Dubrul et al disclose a tissue separation device and method and further disclose a filter slidably disposed on the core wire proximal of the actuateable stop. See Column 6, lines 63-64; Column 7, lines 15-23 and 51-67, Column 8, lines 13-15, and Column 14, lines 1-8 and 44-54.

Since both Cohen et al and Dubrul et al disclose the advancement of an intravascular device over a guidewire, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device and method of Cohen et al to include the use of a filter slidably disposed on the core wire, as per the teachings of Dubrul et al, since it is well known in the art to advance an intravascular device on a guidewire to a treatment site. It also would have been obvious to one of ordinary skill in the art to advance the device until it reached the inflated balloon of Cohen et al, which would inherently act as a stop, by preventing the device from further advancing along the guidewire.

Allowable Subject Matter

3. Claims 3, 4 and 6-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. The following is a statement of reasons for the indication of allowable subject matter: Claims 10-22 and 25-27 contain allowable subject matter, in particular, an actuator disposable about the core wire, the actuator having a proximal end and a distal end, as claimed in Claim 10; and an actuator moveable about the core wire, the actuator having a proximal end and a distal end, as claimed in Claim 25.

Response to Arguments

5. Applicant's arguments, filed July 26, 2005, with respect to the rejection(s) of claim(s) 1, 2 and 5 under Levinson et al (6,277,139 B1) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Cohen et al (5,167,239) and Dubrul et al (6,602,265 B2).

6. Applicant's arguments, filed July 26, 2005, with respect to Claims 10-22 and 25-27 have been fully considered and are persuasive. The rejection of Levinson et al (6,277,139 B1), Cohen et al (5,167,239) and Dubrul et al (6,602,265 B2) has been withdrawn.

7. Applicant's arguments filed July 26, 2005 have been fully considered but they are not persuasive. Regarding Claims 23 and 24, Cohen et al disclose an anchorable guidewire while an intravascular device is guided over the guidewire. Since the balloon

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at the distal end of the guidewire on Cohen et al expands until it contacts the interior diameter of the body lumen, any intravascular device, including a filter as disclosed by Dubrul et al, would inherently be stopped by the balloon once the device has been advanced to the distal end of the guidewire. Therefore, the balloon of Cohen et al acts as an actuateable stop.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Szmaj whose telephone number is (571) 272-4733. The examiner can normally be reached on Monday-Friday, with second Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



BS



CHARLES MARMOR
PRIMARY EXAMINER